IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO. 135 OF 2005

Smt. Chandrabhaga Khandu Doiphone .. Petitioner

Vs.

Smt. Sharde Khandu Doiphode & anr. .. Respondents

Mr. Nilesh M. Bhole h/f. Mrs. Aarti P. Bhide for Petitioner.

CORAM: B.H. MARLAPALLE, J.
Date : October 03, 2005.

P.C.:

1. Heard the learned counsel for the petitioner who is aggrieved by an order dated 16/10/2000 passed in Misc. Application No.50 of 1999 by the learned Civil Judge, Senior Division at Kalyan and confirmed by the learned third Ad-hoc Additional District Judge, Kalyan in Appeal No.148 of 2000.

2. The present respondent no.1 had applied for grant of succession certificate in respect of settlement dues of deceased Khandu Maruti Doiphode under Section 374 of the Indian Succession Act and the learned Civil Judge, Senior Division at Kalyan was pleased to allow the said application. It has been noted by both the courts below that the applicant Sharda had married deceased Khandu on 11/5/1973 and the appellant Smt. Chandrabhaga had married on

5/5/1988. Sharda's application was opposed by the appellant on the ground that there was a customary divorce between Sharda and Khandu. Both the courts below recorded that there was no evidence brought on record by the appellant in support of the plea of customary divorce. Both the courts have considered the evidence of the appellant and her father Shankar (P.W.2). In fact both these witnesses contradicted the date of marriage of the appellant Chandrabhaga with Khandu and even otherwise their testimony was not sufficient to hold that there was a customary divorce and on the contrary the indemnity bond at Exh.32 indicated that there was no legal divorce between deceased Khandu Maruti Doiphode and the applicant Sharda. The concurrent findings recorded by both the courts below cannot be termed as patently erroneous so as to call for interference in this revision petition.

3. Hence the CRA fails and the same is hereby rejected summarily.

(B.H. Marlapalle,J.)